



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making**Agency:** Washington State Department of Ecology AO# 12-03☒ **Preproposal Statement of Inquiry** was filed as WSR 12-19-055 and WSR 12-19-056; or☐ **Expedited Rule Making--Proposed notice** was filed as WSR _____; or☐ **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).**☒ **Original Notice**☐ **Supplemental Notice to WSR** _____☐ **Continuance of WSR** _____

Title of rule and other identifying information: (Describe Subject) Water Quality Standards for Surface Waters of the State of Washington – Chapter 173-201A WAC. Adopt Human Health Toxics Criteria into the standards. Adopt clarifying language and new language related to implementation tools for implementing the Surface Water Quality Standards. This rule proposal combines rule-making activities announced in two separate pre-proposal statement of inquiries (CR-101 forms) – WSR number 12-19-055 and WSR number 12-19-056.

Hearing location(s): See Attachment A

Date: _____ Time: _____

Submit written comments to:

Name: Cheryl Niemi

Address: Water Quality Program, Washington Department of Ecology, PO Box 47600, Olympia, WA 98504-7600

E-mail: swqs@ecy.wa.govFax: (360) 407-6426 by (date) March 23, 2015**Assistance for persons with disabilities:** Contact**Date of intended adoption:** on or after July 1, 2015(Note: This is **NOT** the **effective** date)Water Quality Reception at Ecology, (360) 407-6600
by February 23, 2015

TTY: (877) 833-6341

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

See Attachment B

Reasons supporting proposal:

See Attachment C

Statutory authority for adoption: RCW 90.48.035 Rule-making authority**Statute being implemented:** Chapter 90.48 RCW – Water Pollution Control**Is rule necessary because of a:**

Federal Law?

☒ Yes☐ No

Federal Court Decision?

☐ Yes☒ No

State Court Decision?

☐ Yes☒ No

If yes, CITATION:

Federal Clean Water Act (33 U.S.C. 1251)

DATE

1/8/15

NAME (type or print)

Maia D. Bellon

SIGNATURE**TITLE**

Director

CODE REVISER USE ONLYOFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED**DATE:** January 08, 2015**TIME:** 1:00 PM**WSR 15-03-015**

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

N/A

Name of proponent: (person or organization) Washington State Department of Ecology

- ☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Susan Braley	Washington Department of Ecology, Lacey, Washington	(360) 407-6414
Implementation	Cheryl Niemi	Washington Department of Ecology, Lacey, Washington	(360) 407-6440
Enforcement	Heather Bartlett	Washington Department of Ecology, Lacey, Washington	(360) 407-6405

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

☐ Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

☒ No. Explain why no statement was prepared.

The proposed rule amendments do not impose costs on existing businesses in any industry, therefore a Small Business Economic Impact Statement will not be a part of the rule package.

Is a cost-benefit analysis required under RCW 34.05.328?

☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:
Name: Cheryl Niemi
Address: Washington Department of Ecology, PO Box 47600, Olympia , WA 98504-7600

Phone: (360) 4076440
Fax: (360) 407-6426
E-mail: swqs@ecy.wa.gov

☐ No: Please explain:

Attachment A: Public Hearing information

Hearing 1– Spokane, Washington: March 3, 2015

Time: 6:00 p.m. - starting with half hour “open house” poster session. The presentation will start at 6:30 p.m. followed by questions and answers. The formal Public Hearing will start immediately after.

Location:

Centerplace Regional Event Center
2426 North Discovery Place, Spokane Valley, WA 99216
(509) 688-0300

Hearing 2 – Yakima, Washington: March 4, 2015

Time: 6:00 p.m. - starting with half hour “open house” poster session. The presentation will start at 6:30 p.m. followed by questions and answers. The formal Public Hearing will start immediately after.

Location:

Yakima Convention Center,
10 North 8th Street, Yakima, WA 98901
(509) 575-6062

Hearing 3 –Lacey, Washington combined with a webinar: March 12, 2015

Time: 1:30 p.m. – starting with half hour “open house” poster session. The presentation and webinar will start at 2:00 p.m. followed by questions and answers. The formal Public Hearing will start immediately after and go until 5:00 p.m.

Location:

The Washington State Department of Ecology (Ecology) Headquarters Building Auditorium
300 Desmond Drive, Lacey, WA 98503-1274
(360) 407-6000

Webinar: Ecology is also offering this hearing via webinar starting at 2:00 p.m. Webinars are an online meeting forum that you can attend from any computer using internet access.

Comments: Ecology will accept comments at the Lacey location and through the webinar via phone at (888) 771-4384.

To join the webinar: click on the following link for instructions on how to receive a participant code to use with the webinar phone number:

<http://www.ecy.wa.gov/programs/wq/ruledev/wac173201A/1203inv.html>

Hearing 4 – Lacey, Washington combined with a webinar: March 12, 2015

Time: 6:00 p.m. – starting with half hour “open house” poster session. The presentation and webinar will start at 6:30 p.m. followed by questions and answers. The formal Public Hearing will start immediately after and go until done.

Location:

Ecology Headquarters Building Auditorium
300 Desmond Drive, Lacey, WA 98503-1274
(360) 407-6000

Webinar: Ecology is also offering this hearing via webinar starting at 6:30p.m. Webinars are an online meeting forum that you can attend from any computer using internet access.

Comments: Ecology will accept comments at the Lacey location and through the webinar via phone at (888) 771-4384.

To join the webinar: click on the following link for instructions on how to receive a participant code to use with the webinar phone number:

<http://www.ecy.wa.gov/programs/wq/ruledev/wac173201A/1203inv.html>

Attachment B – Purpose of the proposal and its anticipated effects, including any changes in existing rules

Ecology is proposing amendments to Water Quality Standards for Surface Waters of the State of Washington – Chapter 173-201A WAC (Water Quality Standards). The state’s Water Quality Standards guide how the state regulates water pollution. This proposal combines two previously filed notices (CR 101) that were both dated 9/13/2012. This proposal will combine those two into one rule amendment proposal.

1. This rule making is to amend the Water Quality Standards and provide new human health criteria. Adoption of new human health criteria into Washington’s Water Quality Standards will take into account factors used to calculate each chemical criterion such as the amount of fish and shellfish people eat. The new criteria will be used for all federal Clean Water Actions: discharge permits, water pollution identification and water cleanup plans.
2. This proposal will also propose amendments regarding implementation of the Water Quality Standards. The implementation tools being proposed include language revisions to the compliance schedule and variance sections, and a new section to allow the use of intake credits.

Attachment C – Reasons supporting proposal

Ecology is proposing to adopt new human health criteria to protect public health, safety, and welfare. The current human health criteria Washington uses are outdated federal standards that do not reflect current science on protection from toxic chemicals. With adoption of this amendment, our state will have water quality standards for toxics that more accurately reflect the amount of fish and shellfish people eat in Washington.

Adopting new human health criteria was identified as a high priority when Ecology conducted a triennial review of the water quality standards. The triennial review is required by the Federal Clean Water Act to ensure that states update standards as needed to reflect new and emerging science and information.

This rule proposal will also provide more language regarding how to implement the Water Quality Standards. The proposed amendments to the implementation tools section of this rule is meant to provide more predictable regulatory tools that help entities subject to National Pollutant Discharge Elimination System (NPDES) permits comply with more protective standards. The rule-making to amend implementation tools also directly addresses legislation passed (RCW 90.48.605) that obligates Ecology to amend water quality standards to allow compliance schedules in excess of ten years under certain circumstances for permitted discharges.